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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,440	01/15/2004	John E. Butcher	RICZ 2 00009	5618

27885 7590 10/27/2005

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP  
1100 SUPERIOR AVENUE, SEVENTH FLOOR  
CLEVELAND, OH 44114

EXAMINER
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DOOLEY, JAMES C

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,440	<b>Applicant(s)</b> BUTCHER ET AL.	
	<b>Examiner</b> James C. Dooley	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/15/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/25/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Use of the term "comprising" in line one is improper and must be replaced.

### ***Drawings***

The Drawing are accepted by the Office

### ***Claim Objections***

2. Claims 4,6 are objected to because of the following informalities:

Claim 4 should read ...comprises a deck that holds...

Claim 6 should read ...wherein (said) holders...

3. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson (US 5,109,991) in view of Housman (US 5,855,480). McPherson discloses a wall-covering sample storage container featuring:

- a. A plurality of samples (col. 1 ln. 20)
- b. A plurality of sample holders (36, col. 1 ln. 21 i.e. books)
- c. A case (10) having compartments (34) for each holder
- d. The holders (36) comprise a deck (38)
- e. A pin (40) which passes through holes in samples (fig. 6)

The samples are seen as being rotatable about the pin of McPherson in that they rotate up and over the pin. It is clear from figures 5 and 6 of McPherson that there is no means preventing selective movement of the samples.

McPherson does not disclose organizing the samples and sample holders according to color characteristics. Housman teaches a wallcovering sample holder wherein the sample cards arranged according to color or materials (col. 1 ln. 39-41). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to include the chromatic arrangement of Housman with the holder and case of

McPherson. The motivation being that it is well known to group colored samples by color characteristic.

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson and Housman as applied to claims 1-5, 8 above, and further in view of Nalepka (US 5,449,202). McPherson and Housman together show a wallcovering sample storage system organized by chromatic order. Neither McPherson nor Housman disclose utilizing a color code on the face of the holders. Nalepka et al. teach a method of color-coding the exterior faces of shelved materials. The color-coding system of Nalepka et al. is seen as corresponding to the contents of the items with in the holder (col. 2 ln. 15-20). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to utilize the color code for book spines as taught by Nalepka et al. to arrange wall-covering sample books as disclosed by McPherson. The motivation being to provide a highly visible and simple organizing system.

7. Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson in view of Housman. McPherson discloses a rack for receiving wall-covering sample books. The samples held with the wall covering books of McPherson are seen as being rotatable about the common axis of the pin (40). Housman discloses a wall-covering sample storage unit having the samples arranged according to chromatic or material properties (col. 1 ln. 39-41). It is understood that chromatic order as taught by Housman encompasses color, hue, or intensity. Together McPherson

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and Housman are consider to show the structure capable of performing the method steps of organizing wall-covering samples, by holding the samples in books and arranging the books on a rack according to color groups. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to included the chromatic or material order of Housman with the sample holders and rack of McPherson. The motivation being to ease searching of samples by utilizing a highly visible organizing system.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

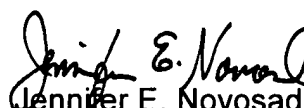
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



10/24/2005



Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634